

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re the Application of:

Mark: INSPIRING POSITIVE CHANGE

Serial No.: 78/244,228

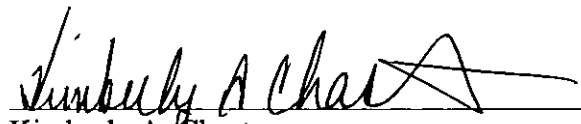
Filing Date: May 1, 2003

Published in the Official Gazette
Of February 24, 2004

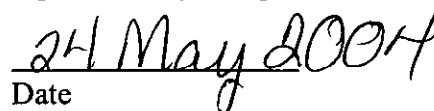
Honorable Commissioner for Trademarks:
2900 Crystal Drive
Arlington, Virginia 22202-3513

DECLARATION ATTESTING TO THE TIMELY MAILING OF
REQUEST FOR EXTENSION TO OPPOSE

Agent for Petitioner, Lifestyle Improvement Centers, LLC d/b/a Positive Changes Hypnosis Centers, affirms that the attached Certificate of Mailing is a true copy of the file copy in our records, and that the attached Request for Further Extension of Time to File Notice of Opposition was in fact forwarded to the Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513, by U.S. Mail on April 26, 2004 and the original Certificate of Mailing was mailed with the Extension Request.


Kimberly A. Chasteen

Agent, Lifestyle Improvement Centers, LLC


Date



UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, Virginia 22202-3513

Mailed: May 5, 2004

Applicant: The Fralix Group, Inc.
Serial No.: 78244228
Filed: 05/01/2003
Mark: INSPIRING POSITIVE CHANGE

Kimberly A. Chasteen
Williams Mullen
Harbor Bank Center, Ste. 210; One Old Oyster Point Rd.
Newport News, VA 23602

Helen Johnson, Legal Assistant

A review of the file in this case reveals that on March 22, 2004, potential opposer herein, Lifestyle Improvement Centers LLC dba Positive Changes Hypnosis Centers, was granted an extension of time until 04/24/2004 in which to file a notice of opposition.

On April 29, 2004, potential opposer filed a request for a further extension of time to oppose that was untimely.

Counsel's attention is directed to Section 13 of the Act of 1946, as amended effective February 27, 1983, wherein it is indicated that "... Upon written request prior to the expiration of the thirty-day period, the time for filing opposition shall be extended for an additional thirty days, and further extension of time for filing opposition may be granted by the Commissioner for good cause when requested prior to the expiration of an extension. . . . " (emphasis added)

Accordingly, since the request was filed on April 29, 2004, five-days outside the previously extended period, **the request is denied.**¹

¹ The request for further extension of time filed on April 29, 2004 by potential opposer did not include a certificate of mailing and/or any other proof of timely filing.

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, Virginia 22202-3513

Mailed: May 14, 2004

Applicant: The Fralix Group, Inc.
Serial No.: 78244228
Filed: 05/01/2003
Mark: INSPIRING POSITIVE CHANGE

Kimberly A. Chasteen
Williams Mullen
Harbor Bank Center, Ste. 210; One Old Oyster Point Rd.
Newport News, VA 23602

Helen Johnson, Legal Assistant

On May 06, 2004, Lifestyle Improvement Centers LLC dba Positive Changes Hypnosis Centers, through counsel has filed a fax copy of the certificate of mailing dated April 26, 2004.

The fax copy of the certificate of mailing did not include a copy of a return receipt card and/or a declaration attesting to the timely mailing of said document.

It would appear that through some undisclosed inadvertence, the original request for a further extension to time to oppose (filed April 29, 2004) that was received by the Office did not include the original certificate of mailing. However, since **potential opposer** has **failed** to show that the initial request received by the Office was timely filed, the request filed on **April 29, 2004** remains **denied** as untimely filed.

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3513 on

26 Apr 2004

Kimberly A Chastain
Printed or typed name of person signing certificate

Kimberly A Chastain
Signature of person signed the certificate

26 Apr 2004
Date of signature

Attorney Docket No.: 036596.4

BOX TTAB NO FEE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re the Application of:

The Fralix Group, Inc.

Application Serial No.: 78/244228

Filed: May 1, 2003

Mark: INSPIRING POSITIVE CHANGE

Published in the Official Gazette
of February 24, 2004Honorable Commissioner for Trademarks
2900 Crystal Drive
Arlington, Virginia 22202-3513

Dear Commissioner:

REQUEST FOR FURTHER EXTENSION OF TIME TO FILE
NOTICE OF OPPOSITION

Petitioner, Lifestyle Improvement Centers LLC d/b/a Positive Changes Hypnosis Centers, and its related and/or affiliated companies, through its undersigned counsel, hereby respectfully requests a further 30-day extension of time to file a Notice of Opposition, to and including May 23, 2004, against the above-identified application.

The reason for this request is that additional time is required to permit undersigned counsel to determine whether an opposition is necessary. The total amount of time, including this extension is 90 days.

This request is not made for the purpose of unduly delaying proceedings in the Patent and Trademark Office.

This request is submitted in triplicate.

Respectfully submitted,

Lifestyle Improvement Centers LLC
d/b/a Positive Changes Hypnosis Centers

By:



Kimberly A. Chasteen
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A Professional Corporation
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Newport News, Virginia 23602
757.249.5100
757.249.5109 (fax)

Date: April 24, 2004

KAC/

cc: Craig L. Mytelka, Esq.